

Clash of Constitutional Courts on addressing statelessness: Dominican Republic and Colombia

Resume Comparative Table:

No.	Key Points	Dominican Republic	Colombia
1	State Party of 1951 and 1961 Statelessness Conventions	No	Yes
2	Previous Historical context on Migrations	Yes. Migratory flows from Haiti.	No. Internal armed conflict: internal displacement (IDPs)
3	Timeframe	1929-2010	2015-2021
4	Nationality of both Parents	Haitians	Venezuelans
5	Migratory category of parents	Migrants	Forced migration: refugees (*mixed flows)
6	ID hold by parents (not residence) at the time of birth	<ul style="list-style-type: none"> • Haitian birth certificate, ID or passport. • Mostly held “Ficha” issued in DR (not residence): access to certain rights (ex. birth registration). 	<ul style="list-style-type: none"> • Venezuelan ID and Passport. • Special Permission to “Stay” (PEP) issued by Colombia (not residence): access to certain rights (no to birth registration).
7	Key legal national sources concerning Nationality.	<ul style="list-style-type: none"> • Constitutions between 1929 and 2010. • Civil Code • Migration Law No. 285-04. • SCJ ruling of 2005. • 2010 Constitution • Civil Registry Law 659 of 1944. • National Civil Registry measures: 	<ul style="list-style-type: none"> • Constitution of 1991 • Law 43 of 1993 modified by Law 962 of 2005. • Civil Code • Constitutional Court ruling T-075/2015 • Circular from National Civil Registry: (Resolution) 59 of March 2015 modified

		Memo 17-07, Resolution 02-2007 and Resolution 12-07.	by resolution 168 of December 2017.
8	Practice: Interpretation and application by authorities before the ruling.	<ul style="list-style-type: none"> • No registry. • Cancellation of ID documents without knowledge. • Not issuance of IDs duplicates. • Registry in a “foreign book” without nationality. • Judicial claims brought the State and annulments of IDs. 	Demonstrate “domicile” holding a residence or visa at the time of birth, if not a certification from the correspondent Consulate stating the person is not national.
9	Recognition of Statelessness by the State	No	Yes
10	Statelessness Status	Mass and Arbitrary Deprivation from Nationality.	Risk of Statelessness *De facto statelessness
11	Legal remedy or legal action	Amparo	Amparo
12	Constitutional Court position: 1. born in the territory, 2. from parents with the same nationality, 3. having irregular migratory status.	Massive and Arbitrary Denationalization	<p>1. Temporary Recognition of Nationality by birth, providing any evidence of “domicile”, such as hospital birth certificate.</p> <p>2. Nationality by Naturalization: in case of no evidence of “domicile” a special statelessness determination procedure is applicable.</p>
13	Standard on <i>in situ</i> statelessness	Immediate restoration of Nationality by origin without administrative	1. Recognition of nationality shall be durable solution.

		procedures neither costs.	2. Residence or domicile shall not be a condition for nationality recognition by <i>jus soli</i> , the evidence of the birth in the territory is enough. 3. Naturalization is not the solution for <i>in situ</i> statelessness, is the recognition of nationality by birth.
15	Impact in numbers	210,00 by 2012 (descendants of Haitians born in DR according National Office of Statistics)	24,000 (between 2015-2019)
15	Law adopted after Constitutional Court Ruling	169 of May 21 of 2014, and application Decree 250-14 (special naturalization)	1997 of September 16, 2019